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Globalization and interdependence: international migration and development

Promotion and protection of the rights of children

Promotion and protection of human rights

Letter dated 11 November 2008 from the Permanent Representative of Mexico to the United Nations addressed to the Secretary-General

Sir,

I have the honour to transmit to you herewith the report of the International Meeting on the Protection of the Rights of Children in the Context of International Migration, which was held in Mexico City on 30 September and 1 October 2008, with the participation of government representatives from 20 countries and representatives of international and civil society organizations.

I would appreciate it if this letter and its annex were circulated as a document of the sixty-third session of the General Assembly under the following agenda items:

- Item 51 (b): International migration and development;
- Item 60: Promotion and protection of the rights of children;
- Item 64: Promotion and protection of human rights.

Accept, Sir, the renewed assurances of my highest consideration.

(*Signed*) Claude **Heller**
Ambassador
Permanent Representative to the United Nations

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Enclosure

Report of the International Meeting on the Protection of the Rights of Children in the Context of International Migration "Migration and Human Rights of Children"

Mexico City –September 30th and October 1st 2008

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I. INTRODUCTION

The International Meeting on the Protection of the Rights of Children in the Context of International Migration, meeting in Mexico City on 30 September and 1 October 2008, co-organised by the Government of Mexico and the Office of the High Commissioner for Human Rights, brought together experts, government representatives, representative from NGOs or National Institutions, representatives from UN Agencies, funds and programmes and international organisations to discuss good practices for the protection of the human rights of children in the migration process.

The Meeting discussed four aspects related to the human rights of children in the context of migration: children staying behind in countries of origin; protection of unaccompanied children on the move; children deprived of liberty on the basis of their migration status or that of their parents; and the situation of children in countries of destination.

II. OPENING CEREMONY

The Meeting was addressed at its inaugural session by Mr. Karim Ghezraoui representative of the United Nations Office of the High Commissioner for Human Rights and by Her Excellency Margarita Zavala, President of the DIF.

Mr. Ghezraoui recalled the importance of a coordinated policy framework dealing with the human rights of children moving across borders, supported by an international legal framework with effective implementation. He referred to the main

human rights instruments addressing children migrants such as the Convention of the Rights of the Child and the Convention for the Protection of the Rights of All Migrant Workers and Their Families. He described the work performed by the Special Procedures of the United Nations Human Rights Council and the Human Rights treaty bodies in the areas discussed at the Meeting.

Ms. Margarita Zavala, President of DIF National, stressed how migration poses challenges to the implementation of the legal framework developed by states to ensure the protection of the rights of children. She referred to the situation in Mexico, a country of destination, transit and origin, where thousands of children cross the border alone either to join family members or to escape situations of violence and abuse. Mexico has devoted continuous attention to the need to protect the human rights of migrants including children and put in place numerous institutions and mechanisms at the Federal, State and municipal levels to address the issue of children travelling alone. In her concluding remarks, Ms. Zavala reminded the participants of the need to pay particular attention to women and children which have traditionally received little attention although they have always been part of migration movements. She finally highlighted the importance of the involvement and commitment of the international community to identify good practices and find solutions respectful of the rights of all children. She then formally declared the opening of the Meeting.

Two independent experts delivered opening statements, Mr. Jorge Bustamante, in his capacity as the Special Rapporteur of the United Nations Human Rights Council on the human rights of migrants and Mr. Francisco Alba, member of the United Nations Committee on the Rights of All Migrant Workers and Members of Their Families (Committee on Migrant Workers).

In his statement, Mr. Bustamante drew the attention of the participants to the need to reflect on challenges posed by the multifaceted aspects of children and migration, including the need for states to comply with their obligations under the international human rights instruments. He also referred to the greater exposure of migrant children to child labour.

Mr. Alba stressed how globalization processes have presented possibilities of development for nations and individuals, while at the same times posing challenges to the respect of the human rights of those involved. In particular, the situation of children has called the attention of the international community. Mr. Alba called for the ratification of the Migrant Workers Convention, which, together with other international human rights instruments, represents a useful tool for the protection of children's rights in the context of migration. The Convention establishes obligations for countries of origin, transit and destination, therefore covering many of the issues surrounding children: children left behind, children who migrate with parents, children who migrate alone, children in countries of destination, detention and repatriation of children, reintegration of children in countries of origin, etc. Countries that have ratified the

Convention have started an important process to institutionalize and professionalize policies and services to promote the rights of migrant workers, including children. Mr. Alba finally highlighted that the Committee on Migrant Workers would strive to build greater synergies with the Committee on the Rights of the Child to strengthen cooperation for the protection of migrant children.

III. THEMATIC DISCUSSIONS

Four roundtables discussed the following topics: the situation of children left behind; protection of children on the move- unaccompanied migrant children; children deprived of liberty due to their migratory status or that of their parent/s; and the situation of children in countries of destination.

Each roundtable was composed of representatives of governments, civil society organizations, national human rights institutions, United Nations agencies, funds and programmes and a rapporteur from the OHCHR.

The four roundtables were chaired by, respectively: Ms. Anamaría Dieguez, member of the Committee on Migrant Workers; Ms. Rosa María González Corona, Coordinator of the Project for the protection of migrant children in the northern border (Colegio de la Frontera Norte); Mr. Víctor Abramovich (Universidad Nacional de Lanus UNLA), member of the Inter-American Commission for Human Rights; and Mr. Norberto Liwski, Director, Inter-American Institute for children and adolescents.

The respective chairs gave a comprehensive and enlightening presentation as a starting point for discussion, followed by presentations of a variety of panellists, including a representative of a member state, United Nations agencies, funds and programmes, international organisations as well as a representative from national human rights institutions and civil society organizations.

Presentations were followed by a general discussion where all participants had the opportunity to make statements on their achievements, experiences and lessons learned on the topic under discussion.

The recommendations emanating from each of the round-tables are reflected in Annex I of this report. The recommendations have been shared with all participants and reflect the discussion which took place under each theme considered.

The programme of the meetings, together with the list of participants and relevant documentation is also annexed to this report.

ANNEX 1

Recommendations of the International Meeting on the Protection of the Rights of Children in the Context of International Migration "Migration and Human Rights of Children"

Mexico City – September 30th and October 1st 2008

Expressing appreciation to the Government of Mexico for hosting the International Meeting on the human rights of children in the context of migration in collaboration with the Office of the United Nations High Commissioner for Human Rights;

Expressing appreciation to the experts/resource persons, representatives of United Nations agencies, funds and programmes, international organisations, member States, national human rights institutions and civil society for their inputs to the Meeting;

Acknowledging the value added of the thematic discussions on the protection of the human rights of children in the context of migration;

Welcoming the activities aimed at addressing the nexus between human rights, migration and development;

Participants in the Meeting

Recognize the important linkage between migration policies and the respect of the human rights of children and agree to continue sharing experiences and ideas on this subject;

Encourage States, inter-governmental organisations and civil society to support initiatives to improve the international protection of migrants, among others through the ratification and implementation of the International Convention on the Rights of All Migrant Workers and Members of Their Families;

Encourage the Committee on the Rights of All Migrant Workers and Members of Their Families to continue to give special attention to the rights of migrant children;

Emphasize that all policies and programmes to address the situation of children in the context of migration should have a human rights-based approach and should be based on fundamental principles such as the best interest of the child, non-discrimination and the right of the child to be heard in all decisions that concern him or her;

Recommend that migration policies, programmes and bilateral agreements preserve family unity, including by facilitating family reunification and interaction among family members;

Highlight the importance of an adequate legal framework for the protection of the rights of all children in the context of migration, including through ratification of relevant international human rights and other instruments and their translation into national laws and policies;

Highlight that the implementation of international human rights standards should permeate the practices and policies at all levels of government and administration;

Encourage inter-institutional coordination at the national level, including through specific mechanisms and with the participation of the civil society, consular services, local governments and the private sector, for the development and implementation of multidisciplinary policies to ensure the protection of the rights of children in the context of migration;

Encourage the synergy of capacities and mandates of international organisations as a key element in supporting states to fulfil their respective obligations under international instruments;

Note the importance of maintaining a credible and sustainable asylum system, including through a comprehensive and integral human rights based migration policy, encompassing sustainable child protection;

To the extent possible and when appropriate, the policy making discussions on migration should be built upon existing international policy platforms, composed by member States, key institutions and civil society organisations with relevant mandates and competencies;

Emphasize that all policies and programmes to protect children in the context of migration should devote specific attention to the situation of girls.

Theme 1: <u>Children staying behind in countries of origin</u>

Recommend that the situation of children staying behind in countries of origin be included in the agenda of the international debates and fora on migration issues;

Recommend that all relevant actors undertake further studies to better understand the impact of migration processes on the wellbeing and the enjoyment of human rights of the children staying behind in countries of origin;

Recommend the compilation and sharing of best practices in addressing the situation of children left behind in countries of origin, especially in the area of education;

Recommend the development of public policies to address the situation of children staying behind in countries of origin, taking into account the best interest of the child as guiding principle and ensuring the participation of these children in their design and implementation. The resilience of these children should be a key objective of these policies;

Encourage States to develop public policies to prevent irregular migration of children and undertake public information campaigns in communities of origin to alert of the dangers of irregular migration and to inform of the existing protection mechanisms;

Theme 2: <u>Protection of children on the move. Unaccompanied migrant children</u>

Encourage the collection of data at the national level, as well as the preparation of studies and research on unaccompanied or separated children;

Recognize that General Comment No. 6 of the CRC on the treatment of unaccompanied and separated children provides useful guidance for the protection of the rights of unaccompanied migrant children;

Recognize that migrant children, especially unaccompanied, are more exposed to worst forms of child labour and in this context recalls the relevance of ILO Convention 182 and recommendation 190 and their implementation framework;

Encourage the conclusion of bilateral and multilateral agreements based on existing international human rights norms and standards and increased cooperation at the regional level to protect migrant children, especially unaccompanied, including in matters of safe repatriation, fight against trafficking, sexual exploitation and smuggling and assistance to victims. The role played by consular services to ensure respect of the rights of the child in the context of return is essential;

Encourage the establishment and implementation of institutionalized services and programmes to provide comprehensive support and protection to migrant children, especially unaccompanied, including means to detect those who are in need of international protection; Protection services should include access to food, health, legal advice; support for return to community of origin; professional and vocational training and the search for durable solutions in the case of refugee children;

Recommend that protection programmes should include reproductive sexual health awareness and training to address psychological trauma;

Encourage design and implementation of programmes for sustainable return and reintegration of children, including alternatives to return when this is not in the best interest of the child;

Recommend the development of standardized procedures to ensure access to asylum procedure for those unaccompanied migrant children who cannot return to their countries of origin because their life, safety or freedom are at risk and to ensure that an assessment of the situation in the country of origin or habitual residence of the children before deciding on their repatriation;

Recommend training for migration officials including on the rights of the child and cultural sensitivities.

Theme 3: Children deprived of liberty because of their migratory status or that of their parents

Recognize the need to comply with and implement the provisions contained in the Convention of the Rights of the Child;

Recognize that all practices and norms implying a restriction or a deprivation of liberty of children in the context of migration must respect minimum standards as defined in international human rights instruments;
Recall that, as provided in art. 37 of the Convention on the Rights of the Child, detention of children should be a measure of last resort and should only be undertaken for the shortest possible period of time;

Recall that migrants should not be deprived of liberty as a sole consequence of their migratory status and that, according to General Comment 6 of the Committee on the Rights of the Child, as a general rule, unaccompanied migrant children should not be detained;

Highlight the desirability of providing alternatives to detention for the family group when parents are detained on the sole basis of migratory status, keeping in mind the need to balance the need to protect family unity with the best interest of the child;

Recall that children should be kept separate from adults, or when housed with families, they should have accommodation distinct from other adults;

Recall that causes and circumstances leading to the deprivation of liberty of migrant children should be previously defined by law and provide for adequate and effective remedies including the judicial review in order to avoid arbitrary detention and access to legal services;

Recommend the development of alternatives to deprivation of liberty such as sheltered housing and alternative care with national child protection services;

Recall that deprivation of liberty of children in the context of migration should never have a punitive nature;

Recommend that national legislation establish the maximum length of detention and for mechanisms for the periodic review of the detention;

Recall that irregular migration should not be criminalized and migrants, especially children, should not be detained in penitentiaries or facilities for criminal detention and they should have inter-alia the right to legal advise, to an interpreter, to legal review, to have contacts with external world, access to education and health services;

Encourage states to define the regime to be applied in migrants holding premises to avoid arbitrariness and application of penitentiary regime;

Recognize the need to allow independent scrutiny and control mechanisms of the conditions of detention of children (judicial authorities, international and local non governmental organizations, international human rights mechanisms, consular services);

Recognize the role played by members of civil society and local communities in addressing issues of discrimination and xenophobia faced by migrant communities;

Recognize the important role played by Consular offices in the protection of children migrants. Consular offices should share good practices and strengthen cooperation;

Emphasize that Particular attention should be paid to the training of officials working with separated and unaccompanied children and dealing with their case. All immigration officials in contact with children should be aware of the principles and provisions of the CRC;

Recognize the need to allocate sufficient resources, including budgetary resources to institutions and programmes working with migrant children deprived of their liberty;

Recall that State authorities must ensure that private companies in charge of managing detention facilities act in conformity with international human rights standards;

Recall that children should be given the opportunity to seek asylum.

Theme 4: <u>Situation of children in countries of destination</u>

Recognize that States must protect and respect the human rights of migrant children, irrespective of their migration status, including the right to basic social services for all

children, in particular the right to food, health, education and an adequate standard of living, as well as access to justice. Dialogue and cooperation between governments of States of origin and destination is highly encouraged, in order to ensure the fulfilment of these rights;

Recommend the development of strategies to pay special attention to migrant children in order to guarantee their access, on an equal basis and regardless of legal status, to the same rights as those of children nationals of the country concerned;

Encourage States to take effective measures to guarantee the birth registration of children born outside their parents` country of origin, and to uphold the principle of avoiding statelessness;

Highlight the importance of harmonizing migration policies with public policies concerning childhood, adolescence and the family;

Recognize the importance of strengthening the institutes for protection of children and adolescents, including through increasing their budgets;

Recommend that Governments in countries of transit and destination promote the existence of conditions that encourage a better harmony, tolerance and respect between migrants, asylum seekers and refugees, and the rest of society, in order to eliminate acts of racism, xenophobia and other forms of related intolerance directed against migrants;

Aware of the double discrimination to which migrant adolescents are subjected, States should pay special attention to avoid the stigmatisation of adolescents;

Recall that any decision to return a child or its parents to the country of origin should always be based on the best interests of the child, including the right to family unity;

Recognize the obligation to ensure that no child is returned to a country in violation of the principle of non-refoulement, as stated in article 33 of the 1951 Convention on Refugees and article 3 of the Convention against Torture;

Recommend that inter-institutional and inter-sectoral coordination in each country be strengthened in order to protect children of all forms of exploitation, including commercial sexual exploitation;

Recognize the need to protect children victims of trafficking, violence and traumas related to migration through the implementation of standards that guarantee their protection and access to medical, psycho-social and legal assistance;

Highlight that regular migration status facilitates integration of migrant children in the communities of destination and encourage consideration of their regularisation.

ANNEX 2

Agenda of the International Meeting on the Protection of the Rights of Children in the Context of International Migration "Migration and Human Rights of Children"

Mexico City –September 30th and October 1st 2008

Tuesday, September 30th

9:00 - 9:20 Opening Session

- Ms. Margarita Zavala
  President of DIF Nacional
- Amb. Patricia Espinosa
  Minister of Foreign Affairs, Mexico
- Amb. Juan Manuel Gómez-Robledo
  Undersecretary for Multilateral Affairs and Human Rights, Mexico
- Mr. Karim Ghezraoui
  Representative of the Office of the High Commissioner for Human Rights

9:20 - 9:50 **Introduction to debates**

- Dr. Francisco Alba
  Member of the Committee of Migrant Workers
- Dr. Jorge Bustamante
  Rapporteur for Human Rights of Migrants, Council for Human Rights

9:50 - 13:30 Roundtable 1: Situation of children staying behind in countries of origin

- Chair: Amb. Anamaría Diéguez
  Committee of Migrant Workers (Guatemala)
- Panelists:
  - Mr. Alejandro Hernández, CNDH (Mexico)
  - Ms. Cecilia Landerreche, DIF Nacional (Mexico)
  - Mr. Alfonso Sandoval, UNFPA Mexico
- Rapporteur: Ms. Teresa Alberro, Office of the High Commissioner for Human Rights (Panamá)

11:00 - 11:15	***Coffee Break***
11:15 - 13:00	Continuance of Round Table 1
13:00 - 13:30	Conclusions of Round Table 1
13:30 - 15:30	***Lunch***
15:30 - 18:45	**Round Table 2: Protection of children on the move: Unaccompanied children** ▪ Chair: Dr. Rosa María González Corona, Colegio de la Frontera Norte (Mexico) ▪ Panelists: - Amb. Margarita Escobar, El Salvador - Ms. Agueda Marín, IOM - Ms. Blanca Villaseñor, "Albergue del Desierto" - Ms. Marion Hoffmann, UNHCR (Mexico) ▪ Rapporteur: Ms. Verónica Birga Office of the High Commissioner for Human Rights
17:00 - 17:15	***Coffee Break***
17:15 - 18:30	Continuance of Round Table 2
18:30 - 18:45	Conclusions of Round Table 2
19:00 - 20:00	***Cocktail***

Wednesday, October 1st

9:00 -12:30 **Round Table 3: Children deprived of liberty on the basis of their migration status or of that of their parents**

- Chair: Dr. Víctor Abramovich,
  Interamerican Commission on Human Rights
- Panelists:
  - Amb. Hernán Holguín,
    Ecuador
  - Mr. Julián Adem,
    Mexican Ministry of Foreign Affairs
  - Ms. Allison Sutton,
    UNICEF
- Rapporteur: Mr Karim Ghezraoui
  Oficina del Alto Comisionado para los Derechos Humanos

10:30 - 10:45 ***Coffee Break***

10:45 - 12:15 Continuance of Round Table 3
12:15 - 12:30 Conclusions of Round Table 3

12:30 - 14:00 ***Lunch***

14:00 - 17:30 Round table 4: Situation of children in countries of destination

- Chair: Dr. Norberto Liwski,
  Interamerican Institute for Children and Adolescent.
- Panelists:
  - Dr. Hoda Saleh Samir El Saady
    Egypt
  - Ms. Alanna Ryan
    ICMC
- Rapporteur: Ms. Carla Edelembos
  Office of the High Commissioner for Human Rights

15:30 - 15:45 ***Coffee Break***

15:45 - 17:15 Continuance of Round Table 4
17:15 - 17:30 Conclusions of Round Table 4

17:30 - 17:45 ***Coffee Break***

17:45 - 18:15 Conclusions and recommendations of the four roundtables
18:15 - 18:30 Closing Session

Annex 3

Participants of the International Meeting on the Protection of the Rights of Children in the Context of International Migration "Migration and Human Rights of Children"

Mexico City –September 30th and October 1st 2008

Governmental representatives

1. Algeria
2. Argentina
3. Australia
4. Belgium
5. Brazil
6. Ecuador
7. Egypt
8. El Salvador
9. Spain
10. United States
11. Philippines
12. Greece
13. Guatemala
14. Indonesia
15. Japan
16. Morocco
17. Nicaragua
18. Norway
19. Pakistan
20. Dominican Republic

International organizations

1. Office of the United Nations High Commissioner for Human Rights (OHCHR)
2. United Nations Children's Fund (UNICEF)
3. United Nations Population Fund (UNFPA)
4. Office of the United Nations High Commissioner for Refugees (UNHCR)
5. International Organization for Migrations (IOM)

Organizaciones de la Sociedad Civil

1. Albergue del Desierto A. C.
2. Amnistía Internacional
3. Caritas México
4. Casa YMCA del Menor Migrante, AC
5. International Catholic Migration Commission
6. Sin Fronteras IAP

Academics and experts

1. Dr. Gustavo López Castro
El Colegio de Michoacán (México)

2. Dr. Rosa María González
El Colegio de la Frontera Norte (México)

3. Ms. Paula Cristina Neves Nogueira
CONAPO (México)

4. Mr. Karim Ghezraoui
OHCHR – Geneve

5. Ms. Carla Edelembos
OHCHR – Geneve

6. Ms. Verónica Birga
OHCHR – Geneve

7. Ms. Teresa Alberro
OHCHR – Panama

8. Dr. Jorge Bustamante
Special Rapporteur for Human Rights of Migrants

9. Dr. Francisco Alba
Committee for Migrant Workers

10. Amb. Anamaría Diéguez
Committee for Migrant Workers

11. Dr. Norberto Liwiski
Interamerican Institute for Children and Adolescent

12. Dr. Víctor Abramovich
Interamerican Commission on Human Rights

National Authorities (Mexico)

1. Ministry of Foreign Affairs (SRE)
2. National Institute of Migration (INM)
3. Mexican Commission on Refugee Assistance (COMAR)
4. National Institute for Women (INMUJERES)
5. National System for Family Comprehensive Development (DIF Nacional)
6. Special Attorney for Crimes Against Women and Smuggling (FEVIMTRA-PGR)
7. Centers for Youth Integration (CIJ)
8. National Commission on Human Rights (CNDH)
9. Mexico City's Commission on Human Rights (CDHDF)
10. DIF – Baja California (Northern Border)
11. DIF – Chihuahua (Northern Border)
12. DIF – Nuevo León (Northern Border)
13. DIF – Tamaulipas (Northern Border)
14. DIF – Chiapas (Southern Border)
15. Mexican General Consul in Nogales, AZ (USA)
16. Mexican General Consul in El Paso, TX (USA)